

HOUSE BILL No. 1426

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3.

Synopsis: Notice of liquor dealer permit application. Requires an applicant for a new liquor dealer permit or transfer of a liquor dealer permit to mail notice of the local board hearing on the application to certain property owners, schools, churches, plan commissions, and neighborhood associations. Provides that if an applicant for renewal of a liquor dealer permit has been cited for violating a law or rule or the local alcoholic beverage board has received complaints against the applicant, the local board may require the applicant to mail notice of the local board hearing on the application to certain property owners, plan commissions, schools, churches, and neighborhood associations.

Effective: July 1, 2003.

Saunders, Pflum

January 14, 2003, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1426

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-3-1-5.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.3. (a) This section
3 applies to an application for a new permit, renewal of a permit, or
4 transfer of a permit **other than a liquor dealer permit** authorized by
5 this article for a location in a:

6 (1) second or third class city; or

7 (2) county other than a county containing a consolidated city.

8 (b) As used in this section, "plan commission" has the meaning set
9 forth in IC 36-7-1-14.

10 (c) A director of a plan commission may request the commission to
11 notify the plan commission that the commission has received an
12 application for a permit for a location within the territory where the
13 plan commission has jurisdiction.

14 (d) If the commission receives a request under subsection (c), the
15 commission shall provide to the appropriate plan commission a copy
16 of the notice that the commission submits for publication to meet the
17 requirements of section 5 of this chapter. The commission shall mail

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the copy to the plan commission no later than the day that the commission submits the notice for publication.

SECTION 2. IC 7.1-3-1-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.7. (a) This section applies to an applicant for a new liquor dealer permit or transfer of a liquor dealer permit if the premises that is the subject of the application is located within:**

- (1) the corporate boundaries of a second or third class city; or**
- (2) the unincorporated area;**

of a county other than a county containing a consolidated city.

(b) As used in this section, "applicant's property" refers to the real property upon which the premises is located that is the subject of an application for a new liquor dealer permit or transfer of a liquor dealer permit.

(c) As used in this section, "contiguous property owner" refers to a property owner who has real property that is:

- (1) adjacent to; or**
- (2) in contact with any point on the border of;**

the applicant's property.

(d) As used in this section, "neighboring property owner" means:

- (1) a contiguous property owner; or**
- (2) a property owner who has real property:**
 - (A) that is adjacent to or in contact with any point on the border of the property of a contiguous property owner; and**
 - (B) any part of which is not more than five hundred (500) feet from the applicant's property.**

(e) As used in this section, "principal owner" means any person or entity holding at least a fifteen percent (15%) interest in the business for which a liquor dealer permit is sought.

(f) As used in this section, "property owner" means any person whose name and address appears in the county assessor's real property tax assessment records as a person responsible for the payment of property taxes on a parcel of real property.

(g) In addition to the notice required by section 5 of this chapter, the applicant for a new liquor dealer permit or a transfer of a liquor dealer permit must, at least fifteen (15) days before the date of the local board hearing, mail notice of the hearing at the applicant's expense to the following:

- (1) Each neighboring property owner.**
- (2) The plan commission, if the applicant's property is located**



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within the jurisdiction of a plan commission.

(3) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.

(4) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(5) Each neighborhood association that represents the area in which the applicant's property is located.

(h) The notice that the applicant mails must provide the following information:

(1) The name and address of the applicant.

(2) A statement that the applicant has filed an application with the commission for a new liquor dealer permit or transfer of a liquor dealer permit.

(3) The specific address of the premises that is the subject of the liquor dealer permit application.

(4) The date, time, and location of the public hearing before the local board regarding the application.

(5) That, if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

(i) The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local board at the public hearing on the application. The affidavit must list the names and addresses of the individuals or other entities to which notice was mailed by the applicant.

(j) Notwithstanding subsection (g), an applicant seeking a transfer of a liquor dealer permit from a permit holder to a new permit holder when the new permit holder does not intend to change the nature of the business operated under the permit may apply to the local board for a waiver of the notice requirement in subsection (g). The local board may consider any information the local board considers relevant in making a determination to approve or deny the waiver request. The local board must approve or deny a waiver request at the first regularly scheduled meeting that occurs at least fifteen (15) days after the local board receives the waiver request from the applicant.

SECTION 3. IC 7.1-3-1-5.8, IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.8. (a) This section applies to an applicant for renewal of a liquor dealer permit for licensed premises located

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within:

- (1) the corporate boundaries of a second or third class city; or
 - (2) the unincorporated area;
- of a county other than a county containing a consolidated city.

(b) As used in this section, "applicant's property" refers to the real property upon which the premises is located that is the subject of an application for renewal of a liquor dealer.

(c) Except as provided in subsection (b), the definitions set forth in section 5.7 of this chapter apply to this section.

(d) The renewal of a liquor dealer permit is subject to IC 7.1-3-19-9.5.

(e) Notwithstanding subsection (d), if:

- (1) an applicant has been cited for a violation of a law or a rule of the commission; or
- (2) the local board has received at least five (5) written complaints against the applicant alleging a violation of a law or a rule of the commission;

the applicant shall, at least fifteen (15) days before the date of the local board hearing, mail notice of the hearing at the applicant's expense as provided in subsection (f). The local board shall notify the applicant that the applicant must provide notice as set forth in this section.

(f) The applicant shall mail the notice required under subsection (g) to the following:

- (1) Each neighboring property owner.
- (2) The plan commission, if the applicant's property is within the jurisdiction of a plan commission.
- (3) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.
- (4) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.
- (5) Each neighborhood association that represents the area in which the applicant's property is located.

(g) The notice that the applicant mails must provide the following information:

- (1) The name and address of the applicant.
- (2) A statement that the applicant has filed an application with the commission for renewal of a liquor dealer permit.
- (3) The specific address of the premises that is the subject of the liquor dealer permit.

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(4) The date, time, and location of the public hearing before the local board regarding the application.

(5) That, if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

(h) The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local board at the public hearing on the application. The affidavit must list the names and addresses of the persons to whom notice was mailed by the applicant.

SECTION 4. IC 7.1-3-19-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. (a) The commission shall provide procedures and forms to allow an applicant for the renewal of a retailer's or dealer's permit to file a simplified application.

(b) An applicant for renewal does not have to be present during the local board proceedings on the renewal unless notified by the commission or the local board. However, a local board may not take any action to deny the renewal of a retailer's or dealer's permit unless the applicant has been notified and given an opportunity to be present at an investigation before the local board.

(c) For the purpose of implementing this section, the commissioner may prorate permits of persons holding more than one (1) retailer's or dealer's permit so that those permits terminate at one (1) time and the renewed permits of that person shall have the same termination date.

(d) In a county containing a consolidated city, the renewal of a retailer's or dealer's permit is subject to this section and IC 7.1-3-1-5.6.

(e) Within:

- (1) the corporate boundaries of a second or third class city; or**
- (2) the unincorporated area;**

of a county other than a county containing a consolidated city, the renewal of a liquor dealer's permit is subject to this section and IC 7.1-3-1-5.8.

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